

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL P. KEARNS, in his individual capacity and  
official capacity as Clerk of the County of Erie, New York,

Plaintiff,

No. 1:19-cv-00902-EAW

vs.

[2d Cir. No. 19-3769]

ANDREW M. CUOMO, in his official capacity as  
Governor of the State of New York,  
LETITIA A. JAMES, in her official capacity as  
Attorney General of the State of New York, and  
MARK J.F. SCHROEDER, in his official capacity as  
Commissioner of the New York State Department of  
Motor Vehicles,

Defendants.

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**INDEX TO THE RECORD ON APPEAL**

The Index to the Record on Appeal consists of the documents on the appended  
docket report.

Dated: December 9, 2019  
Buffalo, New York

Respectfully submitted,

MICHAEL A. SIRAGUSA  
Erie County Attorney and Attorney for  
Plaintiff Michael P. Kearns in his individual  
capacity and official capacity as Clerk of the  
County of Erie, New York

By: s/ Kenneth R. Kirby  
KENNETH R. KIRBY, ESQ.  
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By: s/ Thomas J. Navarro  
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APPEAL,[MEDIATION](#)

**U.S. DISTRICT COURT**  
**U.S. District Court, Western District of New York (Buffalo)**  
**CIVIL DOCKET FOR CASE #: 1:19-cv-00902-EAW**

Kearns v. Cuomo et al  
Assigned to: Hon. Elizabeth A. Wolford  
Cause: 28:2201 Constitutionality of State Statute(s)

Date Filed: 07/08/2019  
Date Terminated: 11/12/2019  
Jury Demand: None  
Nature of Suit: 950 Constitutional - State Statute  
Jurisdiction: Federal Question

**Plaintiff**

**Michael P. Kearns**  
*in his official capacity as Clerk of the County of  
Erie, New York*

represented by **Thomas J. Navarro**  
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V.

**Defendant**

**Andrew M. Cuomo**  
*in his official capacity as Governor of the State  
of New York*

represented by **George Michael Zimmermann**  
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**Defendant**

**Letitia A. James**  
*in her official capacity as Attorney General of  
the State of New York*

represented by **George Michael Zimmermann**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Linda Fang**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Joel J. Terragnoli**  
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**Defendant**

**Mark J.F. Schroeder**  
*in his official capacity as Commissioner of the  
New York State Department of Motor Vehicles*

represented by **George Michael Zimmermann**  
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**Linda Fang**  
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**Joel J. Terragnoli**  
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**Defendant**

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*TERMINATED: 10/10/2019*

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**Amicus**

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**Amicus**

**Amici States**

*the States of Connecticut, California, Delaware, Hawaii, Illinois, Maryland, Nevada, and Washington, and the District of Columbia*

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**Christopher Dunn**

*TERMINATED: 09/11/2019*

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V.

**Movant**

**Daniel T. Warren**

*TERMINATED: 10/10/2019*

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**Movant**

**Rural and Migrant Ministry, et al**

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*TERMINATED: 10/10/2019*

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**Movant**

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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
07/08/2019	<u>1</u>	COMPLAINT against Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder, filed by Michael P. Kearns. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons Cuomo, # <u>3</u> Summons James, # <u>4</u> Summons Schroeder)(KLH) (Entered: 07/09/2019)
07/08/2019		Filing fee: \$ 400.00, receipt number BUF064994 (KLH) (Entered: 07/09/2019)
07/09/2019		Summons Issued as to Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder. (KLH) (Entered: 07/09/2019)
07/09/2019		Notice of Availability of Magistrate Judge: A United States Magistrate of this Court is available to conduct all proceedings in this civil action in accordance with 28 U.S.C. 636c and FRCP 73. The Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form (AO-85) is available for download at <a href="http://www.uscourts.gov/services-forms/forms">http://www.uscourts.gov/services-forms/forms</a> . (KLH) (Entered: 07/09/2019)
07/09/2019		AUTOMATIC REFERRAL to Mediation The ADR Plan is available for download at <a href="http://www.nywd.uscourts.gov/alternative-dispute-resolution">http://www.nywd.uscourts.gov/alternative-dispute-resolution</a> (KLH) (Entered: 07/09/2019)
07/11/2019	<u>2</u>	NOTICE of Appearance by Kenneth R. Kirby on behalf of Michael P. Kearns (Kirby, Kenneth) (Entered: 07/11/2019)
07/17/2019	<u>3</u>	First MOTION for Preliminary Injunction by Michael P. Kearns. (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F, # <u>8</u> Exhibit G, # <u>9</u> Exhibit H, # <u>10</u> Exhibit I, # <u>11</u> Exhibit J, # <u>12</u> Declaration, # <u>13</u> Exhibit A, # <u>14</u> Exhibit B, # <u>15</u> Exhibit C, # <u>16</u> Memorandum in Support)(Navarro, Thomas) (Entered: 07/17/2019)
07/17/2019	4	TEXT ORDER. A telephone conference to discuss scheduling regarding <u>3</u> Plaintiff's Motion for a Preliminary Injunction is set for Thursday, July 18, 2019, at 2:30 p.m. Call-in instructions will be e-mailed to counsel in advance of the conference. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 07/17/2019. (CDH). (Entered: 07/17/2019)
07/18/2019	<u>5</u>	NOTICE of Appearance by George Michael Zimmermann on behalf of Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder (Zimmermann, George) (Entered: 07/18/2019)
07/18/2019	<u>6</u>	AFFIDAVIT of Service for Summons and Complaint served on Gov. Andrew Cuomo on July 11,2019, filed by Michael P. Kearns. (Navarro, Thomas) (Entered: 07/18/2019)
07/18/2019	<u>7</u>	AFFIDAVIT of Service for Summons and Complaint served on Letitia James on July 11,2019, filed by Michael P. Kearns. (Navarro, Thomas) (Entered: 07/18/2019)

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07/18/2019	<a href="#">8</a>	AFFIDAVIT of Service for Summons and Complaint served on Mark Schroeder on July 11, 2019, filed by Michael P. Kearns. (Navarro, Thomas) (Entered: 07/18/2019)
07/18/2019	<a href="#">9</a>	NOTICE of Appearance by Joel J. Terragnoli on behalf of All Defendants (Terragnoli, Joel) (Entered: 07/18/2019)
07/18/2019	10	Minute Entry for proceedings held before Hon. Elizabeth A. Wolford: Appearances: Thomas J. Navarro, Esq. and Kenneth R. Kirby, Esq. on behalf of plaintiff; Joel Terragnoli, AAG and George Zimmerman, AAG on behalf of defendants. Telephone Conference held on 7/18/2019 regarding Motion for Preliminary Injunction <a href="#">3</a> . Defendants' time to Answer or otherwise respond to the Complaint is stayed. Oral Argument regarding Motion for Preliminary Injunction <a href="#">3</a> is set for 9/25/2019 at 2:00 PM in US Courthouse, 2 Niagara Square, Buffalo, NY 14202-3350 before Hon. Elizabeth A. Wolford. (Court Reporter Karen Bush.) (DPS) (Entered: 07/18/2019)
07/18/2019	11	TEXT ORDER re <a href="#">3</a> Motion for a Preliminary Injunction. Defendants' response is due on or before August 16, 2019. Plaintiff's reply is due on or before September 16, 2019. Oral argument is set for September 25, 2019, at 2:00 p.m. at the United States Courthouse, 2 Niagara Square, Buffalo, New York. Defendants' deadline to answer or otherwise respond to the Complaint is held in abeyance pending further order of the Court. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 07/18/2019. (CDH). (Entered: 07/18/2019)
07/24/2019	<a href="#">12</a>	AFFIDAVIT of Service for Preliminary Injunction served on Andrew Cuomo on July 19, 2019, filed by Michael P. Kearns. (Navarro, Thomas) (Entered: 07/24/2019)
07/24/2019	<a href="#">13</a>	AFFIDAVIT of Service for Preliminary Injunction served on Letitia James on July 19, 2019, filed by Michael P. Kearns. (Navarro, Thomas) (Entered: 07/24/2019)
07/24/2019	<a href="#">14</a>	AFFIDAVIT of Service for Preliminary Injunction served on Mark Schroeder on July 19, 2019, filed by Michael P. Kearns. (Navarro, Thomas) (Entered: 07/24/2019)
07/31/2019	<a href="#">15</a>	Letter to the Hon. Elizabeth A. Wolford from Joshua Perry dated July 31, 2019 regarding the intention of the Attorney General for the State of Connecticut to file an amicus brief. (JMM) (Entered: 07/31/2019)
07/31/2019	16	TEXT ORDER re <a href="#">15</a> Letter. The Court grants the Connecticut Attorney General's request for leave to file an amicus brief in support of Defendants. The amicus brief is due on or before 8/23/2019. Replies are due on or before 9/16/2019. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 7/31/2019. (KAC) (A copy of this Text Order has been mailed to the Connecticut Attorney General's office) (Entered: 07/31/2019)
08/08/2019	<a href="#">17</a>	MOTION for Intervention to Move for Dismissal of the Complaint or Alternatively to be Permitted to Participate Amicus Curiae by Daniel T. Warren. (Attachments: # <a href="#">1</a> Declaration, # <a href="#">2</a> Memorandum of Law, # <a href="#">3</a> Exhibit Declaration of Service, Cover, Envelope)(KLH) (Entered: 08/08/2019)
08/08/2019	18	TEXT ORDER re <a href="#">17</a> Motion for Intervention. Responses are due on or before 8/22/2019. Replies are due on or before 8/29/2019. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 8/8/2019. (KAC) (A copy of this Text Order has been mailed to Movant-Intervenor) (Entered: 08/08/2019)
08/13/2019	<a href="#">23</a>	ORDER granting defendants' request for leave to exceed the page limit on a memorandum of law. Signed by Hon. Elizabeth A. Wolford on 8/13/2019. (KLH) (Entered: 08/15/2019)
08/14/2019	<a href="#">19</a>	Letter to the Hon. Elizabeth A. Wolford from Christopher J. Hajec dated August 14, 2019 regarding the intention of the Immigration Reform Law Institute to file an amicus brief. (KAC) (Entered: 08/14/2019)
08/14/2019	20	TEXT ORDER re <a href="#">19</a> Letter. The Court grants the Immigration Reform Law Institute's request for leave to file an amicus brief in support of Plaintiff. The amicus brief as submitted will be docketed by the Clerk of Court. Replies are due on or before 9/16/2019. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 8/14/2019. (KAC) (A copy of this Text Order has been mailed to the Immigration Reform Law Institute) (Entered: 08/14/2019)
08/14/2019	<a href="#">21</a>	Amicus Curiae Brief entered by Christopher J. Hajec on behalf of Immigration Reform Law Institute. (KLH) (Entered: 08/14/2019)
08/15/2019	<a href="#">22</a>	NOTICE of Appearance by Linda Fang on behalf of Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder (Fang, Linda) (Entered: 08/15/2019)



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08/16/2019	<a href="#">24</a>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>AND FOR LACK OF SUBJECT MATTER JURISDICTION</i> by Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder. (Attachments: # <a href="#">1</a> Affidavit of Ann Scott in Support of Motion to Dismiss, # <a href="#">2</a> Exhibit A to Scott Aff., # <a href="#">3</a> Exhibit B to Scott Aff.)(Fang, Linda) (Entered: 08/16/2019)
08/16/2019	<a href="#">25</a>	MEMORANDUM in Support re <a href="#">24</a> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>AND FOR LACK OF SUBJECT MATTER JURISDICTION AND IN OPPOSITION TO</i> <a href="#">3</a> <i>MOTION FOR A PRELIMINARY INJUNCTION</i> filed by Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder. (Fang, Linda) (Entered: 08/16/2019)
08/19/2019	26	TEXT ORDER re <a href="#">24</a> Motion to Dismiss. On or before 8/21/2019, the parties shall meet and confer concerning a proposed briefing schedule regarding the <a href="#">24</a> Motion to Dismiss, and submit to the Court either a mutually acceptable proposal or alternatively submit competing proposals. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 8/19/2019. (KAC) (Entered: 08/19/2019)
08/20/2019	<a href="#">27</a>	Letter filed by Michael P. Kearns as to Letitia A. James, Andrew M. Cuomo, Mark J.F. Schroeder regarding proposed briefing schedule and proposed (rescheduled) oral argument date. (Kirby, Kenneth) (Entered: 08/20/2019)
08/20/2019	28	TEXT ORDER. The Court is in receipt of the parties' joint proposal regarding deadlines for the pending motions in this matter. The Court has no objection to the briefing deadlines requested by the parties. However, the Court is not available for oral argument on October 4, 2019, as the parties have proposed. The Court can make arrangements to be available for oral argument on October 8, 2019, in Buffalo. By the close of business on August 23, 2019, the parties shall inform the Court of their availability for oral argument on October 8, 2019. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 08/20/2019. (CDH). (Entered: 08/20/2019)
08/21/2019	29	TEXT ORDER re <a href="#">3</a> Motion for Preliminary Injunction and <a href="#">24</a> Motion to Dismiss. Based upon the proposal from the parties, the Court hereby amends the schedule pertaining to the pending motions in this matter as follows: Plaintiff's reply in support of the <a href="#">3</a> Motion for Preliminary Injunction and opposition to the <a href="#">24</a> Motion to Dismiss are due on or before 9/16/2019; Defendants' reply in support of the <a href="#">24</a> Motion to Dismiss is due on or before 9/27/2019; Any responses to the amicus briefs of the Connecticut Attorney General and Immigration Reform Law Institute are due on or before 9/27/2019.  To allow sufficient time for briefing, the oral argument regarding the <a href="#">3</a> Motion for Preliminary Injunction and <a href="#">24</a> Motion to Dismiss originally scheduled for 9/25/2019 at 2:00 PM is hereby adjourned to <u>10/23/2019 at 10:00 AM in US Courthouse, 2 Niagara Square, Buffalo, NY 14202-3350</u> before Hon. Elizabeth A. Wolford.  Finally, <u>the Court hereby sets a deadline of Friday, September 6, 2019, for the filing of any requests for leave to submit an amicus brief.</u> Any potential amicus curiae seeking leave to file an amicus brief must, on or before September 6, 2019, file a request with the Court for leave to file an amicus brief <u>with the proposed brief attached.</u> SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 8/21/2019. (KAC) (Entered: 08/21/2019)
08/22/2019	<a href="#">30</a>	MEMORANDUM in Opposition re <a href="#">17</a> MOTION for Intervention to Move for Dismissal of the Complaint or Alternatively to be Permitted to Participate Amicus Curiae filed by Michael P. Kearns. (Kirby, Kenneth) (Entered: 08/22/2019)
08/22/2019	<a href="#">31</a>	RESPONSE in Opposition re <a href="#">17</a> MOTION for Intervention to Move for Dismissal of the Complaint or Alternatively to be Permitted to Participate Amicus Curiae filed by Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder. (Fang, Linda) (Entered: 08/22/2019)
08/22/2019	<a href="#">32</a>	CERTIFICATE OF SERVICE by Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder re <a href="#">25</a> Memorandum in Support of Motion, <a href="#">24</a> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>AND FOR LACK OF SUBJECT MATTER JURISDICTION</i> , <a href="#">31</a> Response in Opposition to Motion to non CM/ECF participants (Fang, Linda) (Entered: 08/22/2019)
08/23/2019	<a href="#">33</a>	Letter filed by Michael P. Kearns as to Letitia A. James, Andrew M. Cuomo, Mark J.F. Schroeder Letter to Judge Wolford regarding 28 U.S.C. sec. 2403(a). (Kirby, Kenneth) (Entered: 08/23/2019)
08/23/2019	34	TEXT ORDER re <a href="#">33</a> Letter. By no later than the close of business on Monday, August 26, 2019, Defendants shall file a letter setting forth their position on the applicability of 28 U.S.C. § 2403 (and

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		related Federal Rule of Civil Procedure 5.1) to the instant matter. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 08/23/2019. (CDH) (Entered: 08/23/2019)
08/23/2019	<a href="#">35</a>	Amicus Curiae Brief entered by Joshua Perry on behalf of Amici States: Connecticut, California, Delaware, Hawaii, Illinois, Maryland, Nevada, and Washington, and the District of Columbia, in Support of Defendants' Motion to Dismiss. (KLH) (Entered: 08/23/2019)
08/26/2019	<a href="#">36</a>	REPLY/RESPONSE to re 34 Text Order, filed by Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder. (Attachments: # <a href="#">1</a> Exhibit A)(Terragnoli, Joel) (Entered: 08/26/2019)
08/28/2019	<a href="#">37</a>	Certification Pursuant to Fed. R. Civ. P. 5.1 and 28 U.S.C. § 2403. Signed by Hon. Elizabeth A. Wolford on 08/28/2019. (CDH)  <b>-CLERK TO FOLLOW UP-</b> (Entered: 08/28/2019)
08/29/2019		Remark: A copy of <a href="#">37</a> Certification has been sent to William Barr, Attorney General (Certified Mail #7016 0340 0000 4753 3320) and to Mary Pat Fleming, U.S. Attorney's Office (Certified Mail #7016 0340 0000 4753 3337). (KLH) (Entered: 08/29/2019)
08/30/2019	<a href="#">38</a>	AMENDED DOCUMENT by Michael P. Kearns. Amendment to <a href="#">1</a> Complaint <i>First Amended Complaint</i> . (Kirby, Kenneth) (Entered: 08/30/2019)
08/30/2019	<a href="#">39</a>	MEMORANDUM in Support of <a href="#">17</a> MOTION for Intervention to Move for Dismissal of the Complaint or Alternatively to be Permitted to Participate Amicus Curiae filed by Daniel T. Warren. (KLH) (Entered: 08/30/2019)
09/03/2019		E-Filing Notification regarding <a href="#">38</a> AMENDED DOCUMENT by Michael P. Kearns: Incorrect event used to electronically file document. <b>Filer is directed to refile the document utilizing the AMENDED COMPLAINT event, located within the Complaints and Other Initiating Documents category.</b> (KLH) (Entered: 09/03/2019)
09/03/2019	<a href="#">40</a>	<b>**Disregard - document re-filed at #41**</b> AMENDED COMPLAINT <i>First Amended Complaint</i> against Michael P. Kearns, filed by Michael P. Kearns.(Kirby, Kenneth) Modified on 9/4/2019 (KLH). (Entered: 09/03/2019)
09/04/2019		E-Filing Notification: Please disregard <a href="#">40</a> AMENDED COMPLAINT: Filer will re-file document to select correct defendants. (KLH) (Entered: 09/04/2019)
09/04/2019	<a href="#">41</a>	AMENDED COMPLAINT <i>First Amended Complaint</i> against Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder, filed by Michael P. Kearns.(Kirby, Kenneth) (Entered: 09/04/2019)
09/04/2019	<a href="#">42</a>	First MOTION Motion to Intervene as Defendants by Rural and Migrant Ministry, et al.(Vasquez, Jorge) (Entered: 09/04/2019)
09/04/2019	<a href="#">43</a>	First MOTION for anonymity re <a href="#">42</a> First MOTION Motion to Intervene as Defendants by Rural and Migrant Ministry, et al.(Chin, Jackson) (Entered: 09/04/2019)
09/04/2019	<a href="#">44</a>	First MOTION to appear pro hac vice ( Filing fee \$ 150 receipt number 0209-3575687.) by Rural and Migrant Ministry, et al.(Vasquez, Jorge) (Entered: 09/04/2019)
09/04/2019	<a href="#">45</a>	First MOTION to appear pro hac vice <i>by Kate Reilly</i> ( Filing fee \$ 150 receipt number 0209-3575686.) by Rural and Migrant Ministry, et al.(Chin, Jackson) (Entered: 09/04/2019)
09/05/2019		Verified admission to the New York State Bar for Attorney Maurice W. Sayeh (CGJ) (Entered: 09/05/2019)
09/05/2019		Verified admission to the New York State Bar for Attorney Kathleen A. Reilly (CGJ) (Entered: 09/05/2019)
09/05/2019	46	TEXT ORDER re <a href="#">42</a> Motion to Intervene and <a href="#">43</a> Motion for Anonymity. Responses are due on or before 9/18/2019. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 9/5/2019. (KAC) (Entered: 09/05/2019)
09/05/2019	47	TEXT ORDER. On September 4, 2019, Plaintiff filed an Amended Complaint as of right pursuant to Fed. R. Civ. P. 15(a)(1)(B). Defendants have 14 days to respond to the Amended Complaint "[u]nless the court orders otherwise." Fed. R. Civ. P. 15(a)(3). Defendants previously filed a motion to dismiss on August 16, 2019. "When a plaintiff amends its complaint while a motion to dismiss is pending the court

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		<p>may den[y] the motion as moot [or] consider [] the merits of the motion in light of the amended complaint." <i>Illiano v. Mineola Union Free Sch. Dist.</i>, 585 F. Supp. 2d 341, 349 (E.D.N.Y. 2008).</p> <p>Plaintiff and Defendants are hereby directed to confer and advise the Court on or before September 9, 2019, as to their position regarding the <a href="#">41</a> Amended Complaint's impact on the <a href="#">24</a> Motion to Dismiss and the related briefing schedule (Dkt. 29). The parties are hereby advised that the Court does <u>not</u> intend to adjourn the oral argument date of October 23, 2019, so in the event a revised briefing schedule is proposed, it must take into account the scheduled oral argument date. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 9/5/2019. (KAC) (Entered: 09/05/2019)</p>
09/05/2019	48	<p>TEXT ORDER granting <a href="#">44</a> Motion to appear pro hac vice on behalf of Maurice W. Sayeh. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 9/5/2019. (KAC)</p> <p><b>-CLERK TO FOLLOW UP-</b> (Entered: 09/05/2019)</p>
09/05/2019	49	<p>TEXT ORDER granting <a href="#">45</a> Motion to appear pro hac vice on behalf of Kathleen A. Reilly. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 9/5/2019. (KAC)</p> <p><b>-CLERK TO FOLLOW UP-</b> (Entered: 09/05/2019)</p>
09/06/2019	<a href="#">50</a>	<p>Letter filed by Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder as to Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder <i>pursuant to the Court's order dated September 5, 2019.</i> (Fang, Linda) (Entered: 09/06/2019)</p>
09/06/2019	51	<p>TEXT ORDER re <a href="#">50</a> Letter. The Court is in receipt of Defendants' letter wherein the parties agree that the <a href="#">41</a> Amended Complaint does not moot Defendants' <a href="#">24</a> Motion to Dismiss, and the Court will construe Defendants' pending motion to dismiss <a href="#">24</a> as directed against the Amended Complaint. Moreover, the Court grants the parties' request to address the new allegations. Accordingly, Defendants may address the new allegations contained in the <a href="#">41</a> Amended Complaint as part of their reply papers due on or before September 27, 2019. Plaintiff may respond, <u>only to any arguments concerning the new allegations made by Defendants</u>, on or before October 4, 2019. The briefing schedule regarding the <a href="#">3</a> Motion for Preliminary Injunction and <a href="#">24</a> Motion to Dismiss as set forth at Docket 29 otherwise remains in effect. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 9/6/2019. (KAC) (Entered: 09/06/2019)</p>
09/06/2019	<a href="#">52</a>	<p>Letter filed by Christopher Dunn as to Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder <i>regarding the intention of the New York Civil Liberties Union to file an amicus brief.</i> (Attachments: # <a href="#">1</a> Exhibit)(Dunn, Christopher) (Entered: 09/06/2019)</p>
09/09/2019	53	<p>TEXT ORDER re <a href="#">52</a> Letter. The Court grants the New York Civil Liberties Union's request for leave to file an amicus brief in support of Defendants. The amicus brief as submitted will be docketed by the Clerk of Court. Any responsive brief is due on or before 9/27/2019. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 9/9/2019. (KAC) (A copy of this Text Order has been mailed to the New York Civil Liberties Union) (Entered: 09/09/2019)</p>
09/09/2019	<a href="#">54</a>	<p>Amicus Curiae Brief entered by Amy Louise Belsher on behalf of New York Civil Liberties Union (NYCLU). (KLH) (Entered: 09/09/2019)</p>
09/10/2019	<a href="#">55</a>	<p>Notice of appearance by Rural and Migrant Ministry (Fajana, Francisca) Modified on 9/11/2019 to correct entry (KLH). (Entered: 09/10/2019)</p>
09/11/2019	<a href="#">56</a>	<p>Amicus Curiae APPEARANCE entered by Christopher T. Dunn on behalf of New York Civil Liberties Union (NYCLU). (Dunn, Christopher) (Entered: 09/11/2019)</p>
09/11/2019	<a href="#">57</a>	<p>Amicus Curiae APPEARANCE entered by Antony Philip Falconer Gemmell on behalf of New York Civil Liberties Union (NYCLU). (Gemmell, Antony) (Entered: 09/11/2019)</p>
09/11/2019	<a href="#">58</a>	<p>Amicus Curiae APPEARANCE entered by Amy Louise Belsher on behalf of New York Civil Liberties Union (NYCLU). (Belsher, Amy) (Entered: 09/11/2019)</p>
09/11/2019		<p>E-Filing Notification regarding <a href="#">55</a> MOTION for Leave to Appear Counsel: Incorrect event used to electronically file document. Clerk corrected entry and terminated motion. No further action required. (KLH) (Entered: 09/11/2019)</p>
09/16/2019	<a href="#">59</a>	<p>First MOTION to appear pro hac vice <i>by Colleen S. Lima</i> ( Filing fee \$ 150 receipt number 0209-</p>

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		3587732.) by Rural and Migrant Ministry, et al.(Boccanfuso, Anthony) (Entered: 09/16/2019)
09/16/2019	<a href="#">60</a>	MEMORANDUM/BRIEF re <a href="#">35</a> Amicus Curiae Appearance, <a href="#">3</a> First MOTION for Preliminary Injunction , <a href="#">24</a> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>AND FOR LACK OF SUBJECT MATTER JURISDICTION</i> Plaintiff's Memorandum of Law in Opposition to Defendants' Motion to Dismiss and in Response to the Amici States' Brief and Reply Memorandum of Law in Further Support of [Plaintiff's] Motion for a Preliminary Injunction by Michael P. Kearns. (Attachments: # <a href="#">1</a> Exhibit A -- U.S. D.O.J. Brief in States of N.Y., et al v. U.S., # <a href="#">2</a> Exhibit B -- U.S. D.O.J.'s Reply Brief in States of N.Y., et al. v. U.S.)(Kirby, Kenneth) (Entered: 09/16/2019)
09/16/2019	<a href="#">61</a>	MOTION for electronic service of documents by Daniel T. Warren.(KLH) (Entered: 09/16/2019)
09/17/2019		Verified admission to the New York State Bar for Attorney Colleen S. Lima (CGJ) (Entered: 09/17/2019)
09/17/2019	<a href="#">62</a>	TEXT ORDER granting <a href="#">59</a> Motion to appear pro hac vice by Colleen S. Lima. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 9/17/2019. (KAC)  <b>-CLERK TO FOLLOW UP-</b> (Entered: 09/17/2019)
09/18/2019	<a href="#">63</a>	MEMORANDUM in Opposition re <a href="#">59</a> First MOTION to appear pro hac vice by Colleen S. Lima ( Filing fee \$ 150 receipt number 0209-3587732.), <a href="#">45</a> First MOTION to appear pro hac vice by Kate Reilly ( Filing fee \$ 150 receipt number 0209-3575686.), <a href="#">44</a> First MOTION to appear pro hac vice ( Filing fee \$ 150 receipt number 0209-3575687.), <a href="#">43</a> First MOTION for anonymity re <a href="#">42</a> First MOTION Motion to Intervene as Defendants , <a href="#">42</a> First MOTION Motion to Intervene as Defendants Plaintiff's Memorandum of Law in Opposition to Rural and Migrant Ministry, et al filed by Michael P. Kearns. (Navarro, Thomas) (Entered: 09/18/2019)
09/18/2019	<a href="#">64</a>	RESPONSE to Motion re <a href="#">43</a> First MOTION for anonymity re <a href="#">42</a> First MOTION Motion to Intervene as Defendants , <a href="#">42</a> First MOTION Motion to Intervene as Defendants filed by Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder. (Fang, Linda) (Entered: 09/18/2019)
09/20/2019	<a href="#">65</a>	Letter filed by Rural and Migrant Ministry, et al as to Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder re: <i>Reply Brief regarding Motion to Intervene (Dkt. 42)</i> . (Reilly, Kathleen) (Entered: 09/20/2019)
09/23/2019	<a href="#">66</a>	TEXT ORDER re <a href="#">65</a> Letter. The request of proposed organizational and individual intervenors ("Proposed Intervenors") for leave to submit a reply in response to Point I in Plaintiff's <a href="#">63</a> Memorandum in Opposition to Proposed Intervenors' <a href="#">42</a> Motion to Intervene is granted. The reply is due on or before 9/27/2019. The Court reserves decision on Proposed Intervenors' other requests, including the request to file a proposed reply brief in support of the <a href="#">24</a> Motion to Dismiss. Therefore, at this time, Proposed Intervenors are only permitted to submit the aforementioned reply in connection with the pending motion to intervene. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 9/23/2019. (KAC) (Entered: 09/23/2019)
09/24/2019	<a href="#">67</a>	MOTION for Leave to File <i>Amicus Curaie Brief</i> by New York State Conservative Party. (Attachments: # <a href="#">1</a> Exhibit Proposed Amicus Curaie Brief)(Jacobson, Frank) (Entered: 09/24/2019)
09/25/2019	<a href="#">68</a>	Letter filed by Michael P. Kearns as to Andrew M. Cuomo, New York State Conservative Party, Letitia A. James, Mark J.F. Schroeder <i>Letter on behalf of plaintiff indicating plaintiff does not object to New York State Conservative Party's motion for permission to file its proposed amicus curiae brief</i> . (Kirby, Kenneth) (Entered: 09/25/2019)
09/26/2019	<a href="#">69</a>	ORDER granting defendants'request for leave to exceed the page limit on a reply memorandum of law. Signed by Hon. Elizabeth A. Wolford on 9/26/2019. (KM) (Entered: 09/26/2019)
09/27/2019	<a href="#">70</a>	MEMORANDUM/BRIEF re <a href="#">54</a> Amicus Curiae Appearance Plaintiff's Memorandum of Law in Response to the New York Civil Liberties Union's Amicus Brief by Michael P. Kearns. (Kirby, Kenneth) (Entered: 09/27/2019)
09/27/2019	<a href="#">71</a>	REPLY/RESPONSE to re <a href="#">63</a> Memorandum in Opposition to Motion,, filed by Rural and Migrant Ministry, et al. (Reilly, Kathleen) (Entered: 09/27/2019)
09/27/2019	<a href="#">72</a>	REPLY to Response to Motion re <a href="#">24</a> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>AND FOR LACK OF SUBJECT MATTER JURISDICTION</i> filed by Andrew M. Cuomo, Letitia A.



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		James, Mark J.F. Schroeder. (Attachments: # <a href="#">1</a> Certificate of Service for non CM/ECF participants) (Fang, Linda) (Entered: 09/27/2019)
10/01/2019	<a href="#">73</a>	MEMORANDUM/BRIEF re <a href="#">72</a> Reply to Response to Motion, <i>Plaintiff's Memorandum of Law Addressing Defendants' Response to the New Allegations in the Amended Complaint</i> by Michael P. Kearns. (Kirby, Kenneth) (Entered: 10/01/2019)
10/03/2019	<a href="#">74</a>	MOTION for Extension of Time to File <i>Motion to Intervene</i> by United States Attorney for the Western District of New York. (Attachments: # <a href="#">1</a> Exhibit 10.02.2019 Email)(Coriell, David) (Entered: 10/03/2019)
10/03/2019	<a href="#">75</a>	RESPONSE to Motion re <a href="#">74</a> MOTION for Extension of Time to File <i>Motion to Intervene</i> filed by Andrew M. Cuomo, Letitia A. James, Mark J.F. Schroeder. (Fang, Linda) (Entered: 10/03/2019)
10/04/2019	<a href="#">76</a>	TEXT ORDER granting in part and denying in part <a href="#">74</a> Motion for Extension of Time to File Motion to Intervene. The Court grants the United States' request that its deadline to intervene be extended to November 12, 2019. To be clear, on or before November 12, 2019, the United States (if it elects to intervene) must file all papers and briefing in support of its position. NO FURTHER EXTENSIONS OF TIME WILL BE GRANTED. The Court denies the United States' request for an adjournment of the oral argument set for October 23, 2019. In the event the United States ultimately intervenes, the Court will determine at that time what, if any, additional briefing and/or argument is necessary. SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 10/04/2019. (CDH). (Entered: 10/04/2019)
10/07/2019	<a href="#">77</a>	Letter filed by New York Civil Liberties Union (NYCLU) as to Andrew M. Cuomo, New York State Conservative Party, Letitia A. James, Mark J.F. Schroeder <i>Regarding oral arguments on the plaintiffs' motion for a preliminary injunction and the defendants' motion to dismiss</i> . (Gemmell, Antony) (Entered: 10/07/2019)
10/07/2019	<a href="#">78</a>	RESPONSE to Motion re <a href="#">17</a> MOTION for Intervention to Move for Dismissal of the Complaint or Alternatively to be Permitted to Participate Amicus Curiae <i>Letter in opposition</i> filed by Michael P. Kearns. (Navarro, Thomas) (Entered: 10/07/2019)
10/09/2019	<a href="#">79</a>	DECISION AND ORDER denying without prejudice <a href="#">42</a> Motion to Intervene; denying as moot <a href="#">43</a> Motion to Proceed Anonymously; denying <a href="#">67</a> Motion for Leave to File an Amicus Curiae Brief; denying <a href="#">17</a> Motion to Intervene; denying as moot <a href="#">61</a> Motion for Electronic Service. Signed by Hon. Elizabeth A. Wolford on 10/09/2019. (CDH)(A copy of this Decision and Order was mailed to Daniel T. Warren) Modified on 10/10/2019 to correct typographical error (CDH). (Entered: 10/09/2019)
10/09/2019	<a href="#">80</a>	TEXT ORDER. Upon reviewing the amicus briefs submitted by the Immigration Reform Law Institute (Dkt. 21), Amici States (Dkt. 35), and New York Civil Liberties Union (Dkt. 52), the Court makes a finding that it will not be necessary for the <i>amici curiae</i> to participate in the oral argument on the Motion for Preliminary Injunction (Dkt. 3) and Motion to Dismiss (Dkt. 24). Accordingly, the Court declines to grant leave for any of the <i>amicus curiae</i> to participate in the oral argument scheduled for October 23, 2019. (Dkt. 29). SO ORDERED. Signed by Hon. Elizabeth A. Wolford on 10/9/2019. (KAC) (Entered: 10/09/2019)
10/23/2019	<a href="#">81</a>	Minute Entry for proceedings held before Hon. Elizabeth A. Wolford: Appearances: Pltf-Kenneth Kirby, Esq., Thomas Navarro, Esq., Dft-Linda Fang, Esq.Oral Argument held on 10/23/2019 re: Plaintiff's motion for preliminary injunction and Defendants' motion to dismiss. Decision reserved. (Court Reporter Karen Bush.) (SDW) (Entered: 10/23/2019)
11/04/2019	<a href="#">82</a>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Motion Argument held on October 23, 2019, before Judge Elizabeth A. Wolford. Court Reporter/Transcriber Karen J. Bush, Contact Info 585-613-4312. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 11/25/2019. Redacted Transcript Deadline set for 12/5/2019. Release of Transcript Restriction set for 2/3/2020. (KLH) (Entered: 11/04/2019)
11/08/2019	<a href="#">83</a>	DECISION AND ORDER denying as moot <a href="#">3</a> Motion for Preliminary Injunction; granting <a href="#">24</a> Motion to Dismiss for Failure to State a Claim. Signed by Hon. Elizabeth A. Wolford on 11/08/2019. (CDH)  <b>-CLERK TO FOLLOW UP-</b> (Entered: 11/08/2019)
11/12/2019	<a href="#">84</a>	JUDGMENT in favor of Defendants. Signed by Mary C. Loewenguth, Clerk of Court on 11/12/2019. (KLH) (Entered: 11/12/2019)

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11/13/2019	<a href="#">85</a>	NOTICE OF APPEAL as to <a href="#">83</a> Order on Motion for Preliminary Injunction, Order on Motion to Dismiss for Failure to State a Claim, <a href="#">84</a> Judgment by Michael P. Kearns. Filing fee \$ 505, receipt number 0209-3649853. (Kirby, Kenneth) (Entered: 11/13/2019)
11/13/2019		Remark: Pursuant to Local Rule 12.1 of the US Court of Appeals for the Second Circuit, Forms C and D must be completed within 14 days after the filing of a notice of appeal. Forms C and D can be obtained at <a href="http://www.ca2.uscourts.gov">www.ca2.uscourts.gov</a> . (KLH) (Entered: 11/13/2019)